

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF COLORADO  
3 Case No. 07-cv-00630-DME-MEH

5 NETQUOTE, INC.,

6 Plaintiff,

7 vs.

8 BRANDON BYRD, et al.,

9 Defendants.

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11 Proceedings before MICHAEL E. HEGARTY, United  
12 States Magistrate Judge, United States District Court for  
13 the District of Colorado, commencing at 9:44 a.m., April 14,  
14 2008, in the United States Courthouse, Denver, Colorado.

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16 WHEREUPON, THE ELECTRONICALLY RECORDED PROCEEDINGS  
17 ARE HEREIN TYPOGRAPHICALLY TRANSCRIBED...

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20 HEATHER CARSON PERKINS and DANIEL WILLIAMS, Attorneys  
21 at Law, appearing for the plaintiff.

22 RYAN ISENBERG, Attorney at Law, appearing for the  
23 defendants.

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25 MOTIONS HEARING - PARTIAL

AVERY/WOODS REPORTING SERVICE, INC.  
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1 Q And in fact they specifically say: We assumed -- we,  
2 therefore, assumed a life of seven years, in their report,  
3 didn't it?

4 A That's correct.

5 Q And as a consequence of that seven years, you are able  
6 to build up your method to come to your 3.2 times annualized  
7 revenue, right?

8 A A seven-year amortization or attrition period is a part  
9 of the process that is used in Exhibit 1, yes.

10 MR. ISENBERG: Judge, may I approach with exhibits  
11 -- I'll be nice, I promise.

12 THE COURT: You don't have any choice. (Pause) Yes,  
13 thank you.

14 Q (By Mr. Isenberg) All right. I'm handing you what's  
15 been marked as Defendant's Exhibit 1 for purposes of this  
16 hearing. This was included in documents that you received  
17 from NetQuote, is it not?

18 A I believe so.

19 Q All right. And in this document, it was prepared by  
20 Mr. Shine of NetQuote. He reported to you that Paul Ford,  
21 the president of NetQuote, determined that the lifetime  
22 value of a sales agent for a national account would be three  
23 to three and half years, and that that was far better than  
24 what could be expected from a local account.

25 A It is what it says.

1 other factors that, in my professional opinion, moved more  
2 -- should be weighted more dramatically, heavily, and thus  
3 I didn't classify them as such. They are classified as  
4 MostChoice Not Substantial for purposes of classification.  
5 That's not to say that the malicious leads had no impact.

6 Q So is it your testimony that you classified agents that  
7 left where there was a substantial factor as MostChoice Not  
8 Substantial?

9 A May I have the question again?

10 Q Sure. Is it your testimony that the -- that among the  
11 32 agent in MostChoice Not Substantial that you have  
12 identified in your report that MostChoice was in fact a  
13 substantial factor?

14 A MostChoice was a factor. I don't think it was a  
15 substantial factor in the departure of those particular 32,  
16 accounting for some -- on a weighted basis, some 25 percent,  
17 26 percent of the values.

18 Q Now, those 32 accounts had an average life span of just  
19 under seven months, didn't they?

20 A I haven't calculated an average for those particular  
21 accounts.

22 Q That's something that can be derived by looking at  
23 Exhibit 7?

24 A It could be derived from data I have. I don't know  
25 that it would be 7, but probably is included in that data as